

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

FRED A. DIXON, JR.,

Plaintiff,

v.

JAMES MCCULLOUGH, et al.,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Case No. 6:22-cv-364-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Fred Dixon, a Texas Department of Criminal Justice inmate proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

On November 1, 2022, Judge Mitchell issued a Report recommending that the Court dismiss this case as barred by the three-strikes provision of 28 U.S.C. §1915(g) and because Plaintiff failed to show that he has satisfied sanctions previously imposed upon him by the U.S. District Court for the Northern District of Texas. Docket No. 9. A copy of this Report was sent to Plaintiff. However, no objections have been received.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court


examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 9) as the findings of this Court. It is therefore **ORDERED** that this case is **DISMISSED** with prejudice as to the refiling of another *in forma pauperis* lawsuit based on these claims, but without prejudice as to the refiling of the lawsuit without seeking *in forma pauperis* status and upon payment of the full \$402.00 filing fee or proof that Plaintiff is in imminent danger as of the time of the refiling of the lawsuit. Should Plaintiff refile his lawsuit, he must also show receipt of permission from a judge of this Court to file a new lawsuit and proof of satisfaction of the \$100.00 sanction imposed by the Northern District of Texas. If Plaintiff fulfills these conditions and pays the full filing fee within 15 days

after entry of final judgment, he shall be allowed to proceed in this lawsuit as though the full fee had been paid from the outset.

So **ORDERED** and **SIGNED** this **8th** day of **December, 2022**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE